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THE
SEIGNIORIAL QUESTION.

ITS PRESENT POSITION

BY

A Member of the Legislative Assembly,

FROM

UPPER CANADA.

QUEBEC.

1854.

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1854S

SEIGNIORIAL QUESTION.

No apology need be offered for intruding on public notice a few observations suggested by a perusal of the Amendments proposed to be offered in the Legislative Council to the Bill sent from the Legislative Assembly, and intitled, "An Act to provide for the abolition of feudal rights and duties in Lower Canada." The importance of the subject and its bearing on the character of the Government and of the Province, will, it may be hoped, secure a patient consideration for the views of one, who without pretending to have originated any new scheme of settlement, has given much consideration to the question during several years, and who is most anxious to contribute to the extent of his humble ability, to its final and satisfactory adjustment. It is proposed in the first place to review briefly the late proceedings with reference to the Seigniorial question. In 1851, the subject was referred to a Select Committee, of which Mr. Drummond, then Solicitor General, was Chairman. The result of the protracted labours of that Committee was a Bill, not to settle the question, but to define the rights of the Seigniors. It was proposed to settle by legislative enactment the maximum amount of *cens et rentes*, to which the Seignior would be entitled, and to adopt measures to compel him to concede at that rate. A Bill was accordingly introduced of a declaratory character, but Mr. Attorney General Lafontaine objected to its being proceeded with, on the ground that it provided no real settlement of the Seigniorial question, and that it was in reality a measure of confiscation.

It was at a very late period of the Session of 1851 when the subject was brought under the consideration of the House, and it soon became apparent that no legislative action could be taken before the prorogation. During the year 1851 a new Administration was formed, and a general election followed. The Government occupied itself during the recess with the consideration of the best means of effecting a satisfactory adjustment of the Seigniorial Question, and the Bill of 1852 was the result of their deliberations. It is necessary to direct special attention to the principle and object of that bill. Not only did it not contemplate the extinction of the Seigniorial Tenure, but it was held by those who professed to be best acquainted with the

opinions of the people of Lower Canada, that there was no strong desire on the part of the *Censitaires* to effect such a change. It was alleged that since the Conquest of the Country, owing to the neglect of the Government and Legislature to provide a tribunal, similar to that which had existed while the Province was under the dominion of the French Crown, there had been no means of compelling the Seigniors to concede lands at the customary rents, and that in consequence they had converted a qualified right of property into an absolute one. It was said that if the powers exercised by the Governor and Intendant before the Conquest had been intrusted to some other Court, the abuses now complained of would not have been permitted. It was not pretended that the *lods et ventes* and the *droit de banalité* were illegal, but it seemed to be the prevailing opinion, that no measure could be more unpopular than a forced commutation of the tenure, which would compel a *Censitaire*, whose rent was clearly within the limits universally admitted to be legal, to redeem the Seigniorial rights of which he did not complain, either by a payment in cash or by an equivalent thereto in an annual charge.

The scope and object of the Government measure was to deal with the question of excessive rents, and in order to remove all ground of complaint on the part of the Seigniors, that their property was to be confiscated, it was determined that the question should be submitted to the Courts of Justice as to whether the rents alleged to be excessive were legal or not. But without reference to this decision, it was to be declared by law that in future the maximum amount of rent should be two pence per arpent, and that the Seignior should be compensated from the public revenue for the difference between that rate and the rate stipulated for in the contract between him and his *censitaire*. This compensation was of course to depend on the favourable decision of the Courts. It is unnecessary to enter into the other details of the bill. It is sufficient to observe that the commutation of the other Seigniorial rights was to be optional, and that the burden of their redemption was to fall on the *censitaire*. The bill as finally passed by the Assembly after much deliberation, was summarily rejected by the Legislative Council, a step which caused great irritation at the time and induced a belief, probably quite unfounded, that there is an indisposition on the part of that Honorable Body to agree to a fair measure for settling the question. It cannot be denied that up to the period of the rejection of the Bill introduced in the

Session of 1852-3, public opinion in Lower Canada had been expressed rather in favor of the reduction of the *cens et rentes* than of the abolition of the tenure. With regard to Upper Canada, where the question is comparatively speaking but little understood, there is an anxious desire on the part of its Representatives to co-operate with the Lower Canadians in settling it in a satisfactory manner. It may safely be affirmed on the part of the Members for Upper Canada, that no objection would be made by them to the application of the Government aid in any manner which may be deemed most conducive to the extinction of the Tenure. It is true that the general public dissatisfaction at the excessive rents and the prevailing belief that the subsisting contracts have been illegally extorted, constitute the ground on which alone public aid can be demanded, but now that the sanction of the House of Assembly has been given to the principle of indemnity from the Consolidated Fund, there would be no objection whatever to a variation in the mode of applying the amount granted, more especially if it could be shewn that such a variation would afford the sole means of extinguishing the Tenure.

To return, however, to the history of the question. After the rejection in May 1853 of the Bill sent by the Assembly to the Legislative Council, increased agitation took place, and public opinion became much stronger in favor of the total abolition of the tenure, especially in the District of Montreal. The people of Quebec too, where the rents are generally low, began to perceive that the effect of the Government measure would be to distribute the indemnity obtained from the resources of the whole population among a minority of the Seigniories situated principally in the District of Montreal, while all the real evils of the system would be left untouched. Unfortunately however the remedy suggested by the Quebec interest was the reduction of the maximum rent from two pence to one penny per arpent, by which means it was hoped that some benefit would be derived by the *Censitaires* in that District. The Government still adhering to the principle of not forcing a Commutation of the tenure, and being unable to deny the reasonableness of the complaints made on behalf of the Quebec *Censitaires*, yielded this point, and proposed the reduction of the rents to one penny without however having any means of increasing the indemnity. It must be obvious that the people of Quebec gained little if any real advantage by the change, while an enormously increased charge has been put on the indemnity fund, and one which it may be wholly insufficient to bear.

The new Government measure now under consideration has been moulded to meet the views of the parties to whom reference has been made. The reduction of the rent to a penny per arpent was to satisfy the Quebec *Censitaires*, while the principle of forced commutation, introduced while the bill was in Committee, was a concession to Montreal public opinion. This last concession is one which alters the whole character of the measure and renders it necessary to retrace the entire ground which has been travelled over. It was a point yielded by the Government at almost the last moment, and it is now admitted that the plan proposed for effecting the commutation and adopted without sufficient consideration would have been grossly unjust to the Seigneur. In dealing with private rights which are not even disputed, there must be a strict regard to the principle of full compensation for all that is taken away, and it is quite evident that this cannot be given with satisfaction to the *Censitaire* under the provisions of the present bill. The amendments proposed to be submitted to the Legislative Council on behalf of the Seigniors, although in accordance with equity and calculated very much to improve the bill sent from the Assembly, will most assuredly render it obnoxious to the mass of the *Censitaires*. In fact, the great objection to all the schemes which have hitherto found favour in the Legislature, is that they operate unequally. They confer a benefit on the people in certain Seigniories at the expense of the public at large, including of course those *Censitaires* who will derive no advantage whatever from the bill. The *Censitaires* are to be relieved from one class of burthens (the rents), but at the same time are to have others imposed on them, while the munificent indemnity fund is to be wasted by being subjected to the charges consequent on the appointment of a batch of Commissioners, the termination of whose labours will assuredly be at a very distant day.

Those who have steadily supported the views of the Government on this question up to the present time, are compelled to pause, now that the whole aspect of affairs has changed. It is to be hoped that the Government will likewise pause. The decisions of the Legislative Assembly would justify them in proposing a settlement of this most difficult question, such as a few months ago they could hardly have ventured on. It is now admitted that the Seigniorial Tenure must be extinguished at no distant period, but it is generally believed that the mode of effecting this object provided by the

Bill, with the amendments under the consideration of the Legislative Council, will fail to give public satisfaction. The principle of compulsory early commutation, having been forced on the Government, they should now deal with the question in the most comprehensive manner. The obvious way of effecting the object, is to apply the indemnity in the first place, to the extinction of the most objectionable and burthensome rights by which means the most offensive features of the tenure could be at once abolished, and a great boon would be extended to every *Censitaire* in Lower Canada. No other plan can be devised which would confer equal benefits on all classes of *censitaires*. The objection of course would be that parties now paying excessive rents would get no special relief. To this it may fairly be replied, that the indemnity has been given, not so much because the parties subjected to these rents have any particular claim to compensation, as to satisfy widely spread popular discontent. It cannot be denied that even if the Seigniors were legally bound to concede at 2d. per arpent, the individual who has purchased a property subject to a rent of 1s per arpent, and who has paid for it a proportionately less price, has no real grievance to complain of, and this class must form an immense majority of the whole body of *Censitaires*.

But even admitting the pretensions of this class of *censitaires* to the fullest extent, it cannot be doubted that they would consider the removal of their other burthens as a great boon, and one which would largely increase the value of their properties, and moreover they would be compelled to acknowledge that they could not reasonably expect to be exempted from the sacrifices which all classes of the population are called upon to make, to procure a satisfactory settlement of the question. The advantage of the plan proposed is, that it is simple and inexpensive, and that no individual would have to pay more annual rent than he does at present, while the entire community would be relieved from all feudal burthens. It moreover can be speedily carried into operation. As the change of tenure would cause an increase to the value of property much greater than the amount which it would cost to redeem the Seigniorial rights, every *censitaire* in Lower Canada would receive an indirect benefit, even greater than the direct one conferred by the Legislature. As there can be little doubt that the present Bill, with the proposed amendments, will wholly fail in its object, it may be well to consider whether

any suggestion, other than the one indicated above, can be offered. Should that plan fail, it might be deemed sufficient legislation for the present, to appropriate the funds set apart in the Bill now pending, to the redemption of Seigniorial rights, to provide for the submission of all disputed points to the Courts of Law, and also for the appointment of Commissioners to obtain information regarding the value of the several rights in all the Seigniories in Lower Canada. Such information could be got very speedily and with sufficient accuracy for the purposes of legislation. Meantime, the Provincial indemnity would be secured, and the revenues would be accruing pending the final action of the Legislature. Under any circumstances, it is not probable that there would be greater delay in settling the question than must necessarily be created by the proposed amendments to the present Bill.



